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October 27, 2023

BY ECF

Honorable Lorna G. Schofield
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Kevin Gamble v. Assistant Commissioner Cort, et al.*,
23 Civ. 06443 (LGS)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, representing Interested Party City of New York (“City”) in the above-referenced matter.¹ With Plaintiff’s consent, I write to respectfully request that the Court *sua sponte* (1) enlarge the time for Assistant Commissioner Cort and Captain Gainous to respond to the complaint by 60 days, from October 31, 2023, until January 2, 2024, and (2) grant a corresponding extension of all other deadlines. This is Interested Party City’s first request that the Court *sua sponte* extend these deadlines. During a telephone call on the date of this writing, plaintiff indicated he consents to these requests.

By way of background, on July 24, 2023, Plaintiff *pro se* filed a complaint against defendants Assistant Commissioner Cort and Captain Gainous. ECF No. 1. On September 1, 2023, the New York City Department of Correction waived service on behalf of the Defendants. ECF No. 9. Because service was waived, this Office only learned of this case about two weeks ago. *See* ECF No. 12 (entering a notice of appearance).

Hence, the individual Defendants, Assistant Commissioner Cort and Captain Gainous, remain unrepresented in this matter. Pursuant to New York General Municipal Law § 50-k, following proper service, this Office must investigate and determine whether it may assume legal representation of each of the individual Defendants before we may seek relief or respond to the

¹ This case has been assigned to Assistant Corporation Counsel Jordan Vanorsdale, who is awaiting her admission to the New York State Bar. Ms. Vanorsdale is handling this matter under my supervision and may be reached at jvanorsd@law.nyc.gov.

complaint on their behalf. *See Mercurio v. City of New York*, 758 F.2d 862, 864–65 (2d Cir. 1985); *Williams v. City of New York*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (holding that the decision as to whether to represent individual defendants is made by the Corporation Counsel as set forth in state law). As such, the requested extension will allow this Office time to conduct representation investigations. Further, an extension may allow both Defendants to file a single, responsive pleading, which would promote judicial efficiency and avoid the potential for jeopardizing their defenses. Accordingly, Interested Party City respectfully requests that the Court *sua sponte* enlarge the time for Assistant Commissioner Cort and Captain Gainous to respond to the complaint until January 2, 2024.

This extension will necessitate corresponding extensions of the other deadlines in this matter. Accordingly, the City respectfully requests that the Court *sua sponte*:

- extend the time for Defendants to file a letter confirming that necessary arrangements have been made for Plaintiff to participate in the initial conference, from November 21, 2023, to January 22, 2024;
- extend the parties' time to file a joint proposed case management plan, from November 21, 2023, to January 22, 2024; and
- adjourn the initial conference, from December 6, 2023, at 4:20 p.m., to a date and time on or after January 29, 2023 that is convenient for the Court.

Accordingly, with plaintiff's consent, the City respectfully requests that the Court *sua sponte*: (1) enlarge the individual defendants' time to respond the complaint by 60 days, and (2) grant a corresponding extension of all subsequent deadlines as set forth herein.

The City thanks the Court for its consideration of this matter.

Application GRANTED in part. Defendants shall answer, move or otherwise respond to the Complaint by **December 15, 2023**.

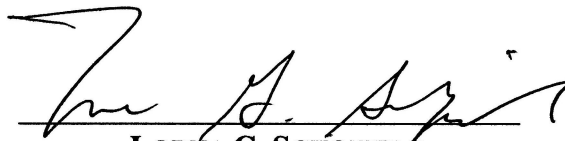
The initial pretrial conference is adjourned to **January 17, 2024, at 4:20 P.M.** By **January 10, 2024**, Defendants shall file a letter confirming that necessary arrangements have been made for Plaintiff to participate in the initial conference. Also by **January 10, 2024**, the parties shall file a joint proposed case management plan and letter as described in the Order at Dkt. 7.

Respectfully submitted,



Jeffrey F. Frank
Assistant Corporation Counsel
Special Federal Litigation Division

Dated: October 30, 2023
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE